

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (BA) 279 OF 2020

(Amir Khan s/o Zamir Khan..vs.. State, thr Rly. Police Station, Wardha Dist. Nagpur Rly.)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Mr. A.K. Bhangde, counsel for applicant.
Mr. M.K. Pathan, APP for non-applicant/State.

CORAM: ROHIT B. DEO, J.
DATE:10.08.2021.

Heard.

2. The applicant is seeking bail in connection with Crime 747/2019, registered with GRP Railway, Wardha, for offences punishable under sections 20(b)(ii)(C) and section 29 of Narcotic Drugs and Psychotropic Substances Act, 1985(NDPS Act).

3. The contraband, which is seized is Cannabis (Ganja), weighing 44.306 kg, which is a commercial quantity. I have therefore, scrutinized the material on record on the anvil of the twin test envisaged by section 37 of the NDPS Act.

4. The case of the Investigating Agency is that while

the Government Railway Police were patrolling the train in question, passenger occupying berth 50 informed that two suspicious bags are lying beneath berth 49 and the passenger occupying berth 49 is not to be seen. Acting on the said information, the applicant, who allegedly occupied berth 49 was traced, the bags were opened and inspected and the contraband found.

5. In my considered view, prima facie material to show conscious possession of the contraband is fragile. Other than the statement of passenger travelling on berth 50 that the two bags are lying beneath berth 49, there is no material to show that it was the applicant, who was travelling with the bags and that it was he, who kept the two bags beneath the berth 49. A satisfaction can be recorded that reasonable grounds exists to believe that the applicant may not be ultimately convicted. It is not the case of the prosecution that the applicant has adverse antecedents, and therefore, a further satisfaction can be recorded of existence of reasonable grounds to believe that the applicant shall not indulge in similar offence if released

on bail. The apprehension of the prosecution is that the applicant may not be available to face the trial and in response, the learned counsel for the applicant assures that local surety will be furnished. The statement is accepted.

6. The application is allowed.

7. The applicant be released on bail in connection with Crime 747/2019, registered with GRP Railway, Wardha, for offences punishable under sections 20(b)(ii)(C) and section 29 of Narcotic Drugs and Psychotropic Substances Act, on executing PR bond of Rs. 50,000/- (Rupees Fifty Thousand) with one solvent surety of the like amount, who shall be a respected resident of Nagpur district.

8. The jurisdictional Court shall, before accepting the surety, satisfy itself that the surety is a respectable permanent resident of Nagpur district.

9. The applicant shall not, directly or indirectly, make any attempt to influence the witnesses or otherwise tamper

with the evidence.

10. The applicant shall not leave the country without the permission of the trial Court.

Judge

Belkhede